



DEPARTMENT OF LABOR

Employee Benefits Security Administration

**[Prohibited Transaction Exemption 2023-02; Exemption
Application No. D-12067]**

**Exemption for Certain Prohibited Transaction Restrictions
Involving Citigroup, Inc. (Citigroup or the Applicant),
Located in New York, New York**

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of exemption.

SUMMARY: This document contains a notice of an exemption issued by the Department of Labor (the Department) extending the exemptive relief provided by PTE 2017-05 for an additional four (4) years. This exemption provides that certain entities with specified relationships to Citigroup (hereinafter, the Citigroup Affiliated QPAMs and the Citigroup Related QPAMs, as defined in Sections I(b) and I(c), respectively) will not be precluded from relying on the exemptive relief provided by Prohibited Transaction Class Exemption 84-14 (PTE 84-14 or the QPAM Exemption), notwithstanding the Conviction (defined in Section I(a)), during the Exemption Period (as defined in Section I(d)).

DATES: This exemption will be in effect from January 10, 2023, through January 9, 2027.

FOR FURTHER INFORMATION CONTACT: Anna Mpras Vaughan of the Department at (202) 693-8565. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Applicant requested an individual exemption pursuant to ERISA Section 408(a) in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011). On November 16, 2022, the Department published a notice of proposed exemption (the Proposed Exemption) in the *Federal Register* that would permit Citigroup Affiliated QPAMs and the Citigroup Related QPAMs to continue relying on the exemptive relief provided by the QPAM Exemption notwithstanding the Conviction provided certain conditions are met.¹

The Conviction: On January 10, 2017, Citicorp, a Delaware corporation that is a financial services holding company and the direct parent company of Citigroup, pled guilty to one count of an antitrust violation of the Sherman Antitrust Act (15 U.S.C. 1) arising from an investigation conducted by the U.S. Department of Justice (DOJ) of certain conduct and practices of Citigroup and other financial services firms in the foreign exchange (FX) spot market.² As set forth in the Plea Agreement, from at least December 2007 until at least January 2013, Citicorp, through one London-based Euro/U.S. dollar (EUR/USD) trader employed by Citibank and other traders at unrelated

¹ 87 FR 68728, November 16, 2022.

² Citicorp's plea agreement with the DOJ (the Plea Agreement), was approved by the U.S. District Court for the District of Connecticut (the District Court) on January 10, 2017 (Case Number 3:15-cr-78-SRU).

financial services firms acting as dealers in the FX spot market entered into and engaged in a conspiracy to fix, stabilize, maintain, increase or decrease the price of, and rig bids and offers for, the EUR/USD currency pair exchanged in the FX spot market by agreeing to eliminate competition in the purchase and sale of the EUR/USD currency pair in the United States and elsewhere (the Criminal Misconduct). The Criminal Misconduct included almost daily conversations, some of which were in code, in an exclusive electronic chat room used by certain EUR/USD traders, including the EUR/USD trader employed by Citibank. The Criminal Misconduct forms the basis for the DOJ's antitrust charge that Citicorp violated 15 U.S.C. 1.

As a result of the Conviction, the Citigroup Affiliated QPAMS and Citigroup Related QPAMS (collectively, the Citigroup QPAMS) became ineligible to rely on the relief provided in PTE 84-14 as of the January 10, 2017, sentencing date for a total of 10 years from the date of the Conviction (the Ten-Year Period), unless the Department issued an administrative individual exemption that would allow it to continue relying on such relief.

On December 22, 2016, the Department granted PTE 2016-04, an exemption allowing the Citigroup QPAMS to rely on the relief provided in PTE 84-14 for 12 months³ and on December 29, 2017, the Department granted PTE 2017-05, an

³ PTE 2016-14, 81 FR 94034.

exemption allowing the Citigroup QPAMs to rely on the relief provided in PTE 84-14 for an additional five years.⁴ The five-year exemption expired on January 9, 2023, leaving four (4) years remaining on the Citigroup QPAMs' Ten-Year Period during which the Citigroup QPAMs cannot rely on PTE 84-14 without an additional administrative individual exemption.

After considering the entire record developed in connection with the Applicant's exemption application, including one comment letter received in connection with the Proposed Exemption that is discussed below, the Department has determined to grant the exemption subject to the conditions and comments described below. The Department has made the requisite findings under ERISA Section 408(a) that the exemption is: (1) administratively feasible, (2) in the interest of the plan and its participants and beneficiaries, and (3) protective of the rights of the Plan's participants and beneficiaries, as long as all of the exemption conditions are met. Accordingly, affected parties should be aware that the conditions incorporated in this exemption are, individually and taken as a whole, necessary for the Department to grant the relief requested by the Applicant. Without these conditions, the Department would not have granted this exemption.

⁴ PTE 2017-05, 82 FR 61864.

Department's Comment: This four-year exemption provides relief from certain of the restrictions set forth in ERISA Sections 406 and 407. No relief from a violation of any other law is provided by this exemption, including any criminal conviction described herein.

The Department cautions that the relief in this four-year exemption will terminate immediately if, among other things, certain entities within the Citigroup corporate structure are convicted of a crime described in Section I(g) of PTE 84-14 (other than the Conviction) during the Exemption Period of the exemption (as described in Section I(f) of this exemption, below). While such an entity could apply for a new exemption in that circumstance, the Department would not be obligated to propose such an exemption, and the facts and circumstances of any new conviction would weigh heavily on whether additional relief is provided. Finally, the terms of this four-year exemption have been designed to permit plans to terminate their relationships with the Citigroup Affiliated QPAMs in an orderly and cost-effective fashion in the event there were another conviction or a plan determines that it is otherwise prudent to terminate its relationship with them.

WRITTEN COMMENTS RECEIVED

In the Proposed Exemption, the Department invited all interested persons to submit written comments and/or

requests for a public hearing with respect to the notice of Proposed Exemption. In this regard, the Applicant was given 15 days to provide notice (Notice) to interested persons, and all comments and requests for a hearing were due on January 3, 2023. On the deadline for the Applicant to meet the Notice requirement (December 1, 2022), the Applicant notified the Department that it did not meet the proposed exemption's Notice requirement, because its notice to interested persons did not include a *Federal Register* copy of the Proposed Exemption. To ensure interested persons would receive full notice and have sufficient time to provide their comments to the Department, the Applicants agreed to send a second notice to interested persons (the Second Notice) to all interested persons that included a copy of *Federal Register* version of the Proposed Exemption and a cover letter notifying interested persons that the Department extended the comment period until January 9, 2023. The Applicant distributed the Second Notice on December 5, 2022.

The Department received 12 non-substantive phone inquiries and one comment letter from the Applicant that requested certain clarifications to the Proposed Exemption's Summary of Facts and Representations and minor changes to the Proposed Exemption's operative language and responded to the Department's request for comment on specific issues. The Department did not receive any other

comment letters or requests for a public hearing. The Applicant's comment letter, and the Department's response thereto, is discussed below.

Applicants' Requested Revisions to the Operative Language

I. Requested Revision to Section I(d). The Applicant states that the judgment described in Section I(d) of the Proposed Exemption was in fact against Citicorp, which is a specifically defined term in Section I(a). Therefore, the Applicant requested that the word "Citigroup" in Section I(d) be changed to "Citicorp."

Department's Response: The Department concurs and has revised the exemption consistent with the Applicant's request.

II. Requested Revision to Section III(j)(2). Section III(j)(2) of the Proposed Exemption requires each Citigroup Affiliated QPAM to agree and warrant to "indemnify and hold harmless the Covered Plan for any actual losses" resulting directly from certain violations and breaches by a Citigroup Affiliated QPAM. The Applicant states that as proposed, Section III(j)(2) includes a definition of "actual losses" that was not included in PTE 2017-05 and has not been defined in prior individual QPAM exemptions the Department as granted. Section III(j)(2) provides that "Actual losses include losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager

as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in the QPAM Exemption."⁵

The Applicant further states that the proposed definition is based on the language used in the pending amendment to Class PTE 84-14 that was published in the *Federal Register* on July 27, 2022, at 87 FR 45204 (the Amendment). In addition, the Applicant states that several commenters on the proposed amendment raised questions about the proposed definition of "actual losses" and requested the Department to revise or delete the definition. The Applicant states that definition may either not appear in the final Amendment or may take a different form, because the Department has not finalized the proposed amendment.

The Applicant asserts that the Department should finalize the definition of "actual losses" in PTE 84-14 rather than including it in the Proposed Exemption. The Applicant states that this would be in the interest of plans because it would facilitate consistency with reliance on the QPAM exemption generally.

Therefore, the Applicant requests the Department to delete the definition of "actual losses" from the Proposed Exemption, or in the alternative, define the phrase in the Proposed Exemption as "actual losses" as such term is defined in PTE 84-14 and if such phrase is not defined in

⁵ 87 FR 68741 (November 16, 2022).

the final amendment to PTE 84-14, the definition should not be included in the version of the Proposed Exemption that is adopted in the final grant notice.

Department's Response: The Department declines to make the Applicant's requested change. The new language clarifies the term "actual losses" for purposes of Section III(j)(2) of the exemption. If a Citigroup Affiliated QPAM no longer is able to rely on the QPAM Exemption, Section III(j)(2) allows the Covered Plans fiduciaries to prudently manage and make the best decisions on behalf of their plans without considering the costs caused by the QPAM's or its affiliate's misconduct, including costs associated with unwinding transactions and transitioning plan assets to a new asset manager, because these costs will be borne by the QPAM and not the Covered Plan. The Department notes that with respect to the notice of obligations requirement in Section III(j)(7), all Covered Plans must receive a notice that includes the clarified definition of actual losses as provided in Section III(j)(2) of this exemption. Covered Plans that previously received a notice in connection with PTE 2016-14 or PTE 2017-05 must receive a new notice if the notice they previously received did not include the definition of actual losses that is provided in this exemption.

Applicants' Requested Revisions to the Summary of Facts and Representations

III. Information on Estimated Trading Costs for Transitioning an Investment Portfolio.

Applicant's Request: The Applicant states that paragraph 31 on page 68737 of the Proposed Exemption included a table provided by the Applicant in its submission to the Department dated October 13, 2022, that describes the estimated trading and risk costs of transitioning an investment portfolio to a new manager. For the record, the full list of assumed Commission Rates is as follows:

Commission Rates	
US Equities	0.5 cents per share
DM Equities	3 basis points
EM Equities	8 basis points
FX	2 basis points
US Treasuries	2 basis points
Corporates	6 basis points
Mortgages	6 basis points
Municipals	6 basis points

The Department's Response: The Department notes the revision to the table in paragraph 31 on page 68737 of the Proposed Exemption.

IV. Description of Citigroup Advisory Business.

Applicant's Request: The Applicant states that, as a result of recent internal Citigroup organizational changes and other considerations, the registered investment adviser business of Citi Private Advisory, LLC (CPA) was moved in

its entirety into a newly formed entity, Citi Global Alternatives, LLC, which commenced operations in September 2022.

The Department's Response: The Department notes this change in structure.

The Department's Requests for Comments on Specific Issues

V. The Department asked the Applicant whether the Applicant should be required to provide information regarding adverse regulatory actions (e.g., fines, censures, penalties, civil lawsuits, settlements of civil or criminal lawsuits), that are taken by other regulators against Citigroup and its affiliates. Further, the Department asked the Applicant whether the Applicant should be required to provide information regarding actions taken by certain regulators (e.g., IRS, SEC, OCC, UK FCA), and whether there is an appropriate type of information or class of regulatory actions that are relevant to the Department's determination whether the Citigroup QPAMS should be permitted to continue to rely on PTE 84-14 notwithstanding the Conviction.

Applicant's response: The Applicant does not believe it should be required to provide information regarding adverse regulatory actions beyond what is currently required by applicable law. The Applicant explained that Citigroup does business in more than 160 countries and

jurisdictions across the globe, with extensive oversight by regulatory authorities (frequently more than one in each jurisdiction) under multiple regulatory regimes. The Applicant stated that given the wide variety of regulatory regimes and broad range of possible actions that regulators could take, Citigroup does not believe it would be feasible to undertake such reporting generally or to define a particular type of information or class of regulatory actions that would be relevant to the QPAM relief. The Applicant stated that attempting to do so would lead to uncertainty for plans and plan fiduciaries, to the detriment of plans.⁶

Furthermore, the Applicant states that Citigroup's subsidiary Citibank, N.A., is a national bank subject to the restrictions in the National Bank Act on making records available to persons other than the Office of the Comptroller of the Currency (the OCC). The Applicant states that the OCC Reports of Examination and other formal written communications are subject to confidentiality requirements under federal banking law, specifically under 12 CFR part 4. Other U.S. banking regulators operate under similar restrictions, as described in a 2005 joint release

⁶ The Applicant notes that, although it is not practical to estimate the number of regulatory authorities and regimes to which Citi is subject worldwide, it is easy to imagine the aggregate number that specifically focus on the regulation of financial services being in the many hundreds, and those whose regulatory focus is not specifically on financial services business but whose regulations impact financial services, such as the tax and employment law authorities, in the many thousands.

by the OCC and other federal banking agencies entitled "Interagency Advisory on the Confidentiality of the Supervisory Rating and Other Nonpublic Supervisory Information," and non-U.S. regulators may impose similar limitations. The Applicant states that as a result, a requirement to make records available to the Department would be administratively burdensome for the Department, because of the need to distinguish between information that may or may not be legally disclosed, and the information made available to the Department or to plans would be necessarily incomplete.

The Department's Response: The Department notes the Applicant's response and agrees that currently, additional information regarding U.S. and non-U.S. regulators' actions beyond that already required under the terms of this exemption, should not be required as an additional condition for relief. However, the Department notes that if it becomes aware of any other regulatory actions that it considers relevant to a determination whether continued relief under this exemption is appropriate, then the Department may request detailed information from the Applicant.

VI. The Department's Request for Comment Regarding Training: The Department views the Training obligation under this exemption as a key protection of Covered Plans

and expects that Citigroup Affiliated QPAMs and their personnel will complete their obligations in good faith. The Department requests comments regarding whether the Citigroup Affiliated QPAMs should be required to validate the efficacy of Training that is provided electronically, through methods such as in-training knowledge checks, "graduation" tests, and other technological tools designed to confirm that personnel fully and in good faith participate in the Training.

Applicant's Response: The Applicant agrees that it is important to verify training that has been provided electronically. It has a system in place for this purpose, called the Citi Learning Management System (LMS), an automated system that launches, monitors completion, and maintains a permanent record of all employee web-based training. Among other things, the LMS system:

- emails the employee periodic reminders to complete the training before the due date;
- notifies the employee's manager if training is overdue; and
- maintains a Reports Dashboard that allows a manager or Independent Compliance Risk Management (ICRM) to check completion rates.

ICRM may periodically run its own reports and communicate overdue results to business management. In addition, the training modules include "knowledge checks," in the form of

questions positioned at different points in the program, relating to key aspects of the training.

The Applicant stated that it does not believe any additional conditions are required in the exemption to impose any such requirements, because it already has a system in place.

The Department's Response: Given the importance of the Training requirement to this exemption, the Department does not agree with the Applicant that additional conditions to validate the efficacy of the Training should not be required, as such additional conditions would be protective of participants and beneficiaries of Covered Plans. To the extent the Applicant has existing procedures that already address these concerns, it should not be difficult for Citigroup to comply with additional requirements to confirm that personnel fully and in good faith participate in the Training. As such, the Department has added new Section III(h)(2)(iv) to require that the Training "[b]e verified, through in-training knowledge checks, "graduation" tests, and/or other technological tools designed to confirm that personnel fully and in good faith participate in the Training."

Furthermore, the Department expects the independent auditor described in Section III(i)(1) of the exemption to address through its review and testing, the concerns

raised in the Department's Request for Comment validating the efficacy of the Training, and, if necessary, to suggest additional enhancements to the Applicant's Training program.

Additional Clarifications

In the Notice of Proposed Exemption, the Department commented that, "[t]he Department intends for the "Best Knowledge" standard described in the exemption to require the certifying senior executive to perform its due diligence required under the exemption to determine whether the information such executive is certifying is complete and accurate in all respects."⁷ The Department clarifies that, this interpretation applies whenever the "Best Knowledge" standard is used in the exemption. Furthermore, with respect to an entity other than a natural person, the term "Best Knowledge" includes matters that are known to the directors and officers of the entity or should be known to such individuals upon the exercise of such individuals' due diligence required under the circumstances.

Conclusions

Accordingly, after considering the entire record developed in connection with the Applicant's exemption

⁷ 87 FR 68736.

request, subject to the comments and information described above, and in consideration of the exemption's protective conditions, the Department has determined to grant this exemption consistent with the requirements of ERISA Section 408(a).

The complete application file (D-12067) for this exemption is available for public inspection in the Public Disclosure Room of the Employee Benefits Security Administration, Room N-1515, U.S. Department of Labor, 200 Constitution Avenue N.W., Washington, D.C. 20210. For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, please refer to the Proposed Exemption published on November 16, 2022, at 87 FR 68278.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under ERISA Section 408(a) does not relieve a fiduciary or other party in interest from certain requirements of other ERISA provisions, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of ERISA Section 404, which, among other things, require a fiduciary to discharge their duties respecting

the plan prudently and solely in the interest of the plan's participants and beneficiaries.

(2) As required by ERISA Section 408(a), the Department hereby finds that the exemption is: (a) administratively feasible; (b) in the interests of the affected plan and its participants and beneficiaries; and (c) protective of the rights of the plan's participants and beneficiaries.

(3) This exemption is supplemental to, and not in derogation of, any other ERISA provisions, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of determining whether the transaction is in fact a prohibited transaction.

(4) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describe all material terms of the transactions that are the subject of the exemption.

Accordingly, the Department grants the following exemption under the authority of ERISA Section 408(a) and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (76 FR 66637, 66644, October 27, 2011):

EXEMPTION

SECTION I: DEFINITIONS

(a) The term "Citicorp" means Citicorp, a financial services holding company subsidiary of Citigroup Inc. that is organized and existing under the laws of Delaware and does not include any subsidiaries or other affiliates.

(b) The term "Citigroup Affiliated QPAM" means a "qualified professional asset manager" (as defined in section VI(a)⁸ of PTE 84-14) that relies on the relief provided by PTE 84-14 and with respect to which Citigroup is a current or future "affiliate" (as defined in section VI(d)(1) of PTE 84-14). The term "Citigroup Affiliated QPAM" excludes Citicorp, the entity implicated in the criminal conduct that is the subject of the Conviction.

(c) The term "Citigroup Related QPAM" means any current or future "qualified professional asset manager" (as defined in section VI(a) of PTE 84-14) that relies on the relief provided by PTE 84-14, and with respect to which Citigroup owns a direct or indirect five percent or more interest, but with respect to which Citigroup is not an "affiliate" (as defined in Section VI(d)(1) of PTE 84-14).

(d) The term "Conviction" means the judgment of conviction against Citicorp for violation of the Sherman Antitrust Act (15 U.S.C. 1), entered in the District Court

⁸ In general terms, a QPAM is an independent fiduciary that is a bank, savings and loan association, insurance company, or investment adviser that meets certain equity or net worth requirements and other licensure requirements and has acknowledged in a written management agreement that it is a fiduciary with respect to each plan that has retained the QPAM.

for the District of Connecticut (the District Court) (Case Number 3:15-cr-78-SRU). For all purposes under this exemption, "conduct" of any person or entity that is the "subject of [a] Conviction" encompasses the conduct described in Paragraph 4(g)-(i) of the Plea Agreement filed in the District Court in Case Number 3:15-cr-78-SRU.

(e) The term "Covered Plan" means a plan subject to Part 4 of Title I of ERISA (ERISA-covered plan) or a plan subject to Section 4975 of the Code (IRA) with respect to which a Citigroup Affiliated QPAM relies on PTE 84-14, or with respect to which a Citigroup Affiliated QPAM (or any Citigroup affiliate) has expressly represented that the manager qualifies as a QPAM or relies on the QPAM class exemption (PTE 84-14). A Covered Plan does not include an ERISA-covered Plan or IRA to the extent the Citigroup affiliated QPAM has expressly disclaimed reliance on QPAM status or PTE 84-14 in entering into its contract, arrangement, or agreement with the ERISA-covered plan or IRA.

(f) The term "Exemption Period" means January 10, 2023, through January 9, 2027.

SECTION II: COVERED TRANSACTIONS

The Citigroup Affiliated QPAMs and the Citigroup Related QPAMs (as defined in Sections I(b) and I(c), respectively) will not be precluded from relying on the

exemptive relief provided by Prohibited Transaction Class Exemption 84-14 (PTE 84-14 or the QPAM Exemption),⁹ notwithstanding the Conviction, as defined in Section I(d)), during the Exemption Period, provided that the conditions in Section III below are satisfied.

SECTION III: CONDITIONS

(a) Other than a single individual who worked for a non-fiduciary business within Citigroup's Markets and Securities Services business, and who had no responsibility for and exercised no authority in connection with the management of plan assets, the Citigroup Affiliated QPAMs and the Citigroup Related QPAMs (including their officers, directors, agents other than Citicorp, and employees of such QPAMs who had responsibility for, or exercised authority in connection with the management of plan assets) did not know of, did not have reason to know of, or participate in the criminal conduct that is the subject of the Conviction. For purposes of this paragraph (a), "participate in" means the knowing approval of the misconduct underlying the Conviction;

(b) Other than a single individual who worked for a non-fiduciary business within Citigroup's Markets and Securities Services business and who had no responsibility

⁹ 49 FR 9494 (March 13, 1984), as corrected at 50 FR 41430 (October 10, 1985), as amended at 70 FR 49305 (August 23, 2005), and as amended at 75 FR 38837 (July 6, 2010).

for and exercised no authority in connection with the management of plan assets, the Citigroup Affiliated QPAMs and the Citigroup Related QPAMs (including their officers, directors, and agents other than Citicorp, and employees of such Citigroup QPAMs) did not receive direct compensation or knowingly receive indirect compensation in connection with the criminal conduct that is the subject of the Conviction;

(c) The Citigroup Affiliated QPAMs will not employ or knowingly engage any of the individuals that participated in the criminal conduct that is the subject of the Conviction. For the purposes of this paragraph (c), "participated in" includes the knowing approval of the misconduct underlying the Conviction;

(d) At all times during the Exemption Period, no Citigroup Affiliated QPAM will use its authority or influence to direct an "investment fund" (as defined in Section VI(b) of PTE 84-14), that is subject to ERISA or the Code and managed by such Citigroup Affiliated QPAM in reliance on PTE 84-14, or with respect to which a Citigroup Affiliated QPAM has expressly represented to an ERISA-covered plan or IRA with assets invested in such "investment fund" that it qualifies as a QPAM or relies on PTE 84-14, to enter into any transaction with Citicorp, or to engage Citicorp to provide any service to such investment fund, for a direct or indirect fee borne by such

investment fund, regardless of whether such transaction or service may otherwise be within the scope of relief provided by an administrative or statutory exemption;

(e) Any failure of a Citigroup Affiliated QPAM or a Citigroup Related QPAM to satisfy Section I(g) of PTE 84-14 arose solely from the Conviction;

(f) A Citigroup Affiliated QPAM or a Citigroup Related QPAM did not exercise authority over the assets of any plan subject to Part 4 of Title I of ERISA (an ERISA-covered plan) or section 4975 of the Code (an IRA) in a manner that it knew or should have known would: Further the criminal conduct that is the subject of the Conviction; or cause the Citigroup Affiliated QPAM, the Citigroup Related QPAM or their affiliates to directly or indirectly profit from the criminal conduct that is the subject of the Conviction;

(g) Other than with respect to employee benefit plans maintained or sponsored for its own employees or the employees of an affiliate, Citicorp will not act as a fiduciary within the meaning of section 3(21)(A)(i) or (iii) of ERISA, or section 4975(e)(3)(A) and (C) of the Code, with respect to ERISA-covered plan and IRA assets; provided, however, that Citicorp will not be treated as violating the conditions of this exemption solely because it acted as an investment advice fiduciary within the meaning of section 3(21)(A)(ii) or section 4975(e)(3)(B) of the Code;

(h) (1) Each Citigroup Affiliated QPAM must continue to maintain, adjust (to the extent necessary), implement and follow written policies and procedures (the Policies). The Policies must require and be reasonably designed to ensure that:

(i) The asset management decisions of the Citigroup Affiliated QPAM are conducted independently of the corporate management and business activities of Citigroup;

(ii) The Citigroup Affiliated QPAM fully complies with ERISA's fiduciary duties and with ERISA and the Code's prohibited transaction provisions, as applicable with respect to each Covered Plan, and does not knowingly participate in any violation of these duties and provisions with respect to Covered Plans;

(iii) The Citigroup Affiliated QPAM does not knowingly participate in any other person's violation of ERISA or the Code with respect to Covered Plans;

(iv) Any filings or statements made by the Citigroup Affiliated QPAM to regulators, including, but not limited to, the Department, the Department of the Treasury, the Department of Justice, and the Pension Benefit Guaranty Corporation, on behalf of or in relation to Covered Plans, are materially accurate and complete to the best of such QPAM's knowledge at the time;

(v) To the best of the Citigroup Affiliated

QPAM's knowledge at the time, the Citigroup Affiliated QPAM does not make material misrepresentations or omit material information in its communications with such regulators with respect to Covered Plans, or make material misrepresentations or omit material information in its communications with Covered Plans;

(vi) The Citigroup Affiliated QPAM complies with the terms of this exemption; and

(vii) Any violation of, or failure to comply with an item in subparagraphs (ii) through (vi), is corrected as soon as reasonably possible upon discovery, or as soon after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and any such violation or compliance failure not so corrected is reported, upon the discovery of such failure to so correct, in writing, to the head of compliance, and the General Counsel (or their functional equivalent) of the relevant line of business that engaged in the violation or failure, and the independent auditor responsible for reviewing compliance with the Policies. A Citigroup Affiliated QPAM will not be treated as having failed to develop, implement, maintain, or follow the Policies, provided that it corrects any instance of noncompliance as soon as reasonably possible upon discovery, or as soon as reasonably possible after the QPAM reasonably should have known of the noncompliance (whichever is earlier), and provided that it

adheres to the reporting requirements set forth in this subparagraph (vii);

(2) Each Citigroup Affiliated QPAM must maintain, adjust (to the extent necessary), and implement a program of training (the Training) to be conducted at least annually for all relevant Citigroup Affiliated QPAM asset/portfolio management, trading, legal, compliance, and internal audit personnel. The Training must:

(i) At a minimum, cover the Policies, ERISA and Code compliance (including applicable fiduciary duties and the prohibited transaction provisions), ethical conduct, the consequences for not complying with the conditions of this four-year exemption (including any loss of exemptive relief provided herein), and prompt reporting of wrongdoing;

(ii) Be conducted by a professional who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code;

(iii) Be conducted in-person, electronically or via a website; and

(iv) Be verified, through in-training knowledge checks, "graduation" tests, and/or other technological tools designed to confirm that personnel fully and in good faith participate in the Training;

(i)(1) Each Citigroup Affiliated QPAM, which Citigroup identifies in a certificate signed by the officer who will

review and certify the Audit Report (as defined in Section III(i)(5)) pursuant to Section III(i)(8), submits to an audit conducted every two years by an independent auditor, who has been prudently selected and who has appropriate technical training and proficiency with ERISA and the Code, to evaluate the adequacy of, each Citigroup Affiliated QPAM's compliance with the Policies and Training conditions described herein. The audit requirement must be incorporated in the Policies. The last audit period under PTE 2017-05 will extend into the Exemption Period under this exemption; therefore, the audit periods under PTE 2017-05 and this exemption are as follows:

(i) Under PTE 2017-05, the first audit covers the period from July 10, 2018 through July 9, 2019 (and must be completed by January 9, 2020); the second audit covers the period from July 10, 2020 through July 9, 2021 (and must be completed by January 9, 2022); and the third audit covers the period from July 10, 2022 through July 9, 2023 (and must be completed by January 9, 2024).

(ii) The first audit under this four-year exemption (the fourth audit under the totality of exemptive relief) covers the period from July 10, 2024 through July 9, 2025 (and must be completed by January 9, 2026); and the second audit (the fifth audit under the totality of exemptive relief) covers the period from July 10, 2026 through January 9, 2027 (must be completed by July 9,

2027). As described above, the fifth audit period is truncated, so that it expires concurrently with the expiration of the Exemption Period. However, the Audit Report (defined below) for the fifth audit period must be completed and delivered timely and despite such report being due to the Department after the expiration of the Exemption Period, the failure to receive such report could impact negatively on Citigroup's ability to claim relief under this exemption during the Exemption Period, if granted.

(2) Within the scope of the audit and to the extent necessary for the auditor, in its sole opinion, to complete its audit and comply with the conditions for relief described herein, and only to the extent such disclosure is not prevented by state or federal statute, or involves communications subject to attorney client privilege, each Citigroup Affiliated QPAM and, if applicable, Citigroup, will grant the auditor unconditional access to its business, including, but not limited to: Its computer systems; business records; transactional data; workplace locations; training materials; and personnel. Such access is limited to information relevant to the auditor's objectives as specified by the terms of this exemption;

(3) The auditor's engagement must specifically require the auditor to determine whether each Citigroup Affiliated QPAM has developed, implemented, maintained, and followed

the Policies in accordance with the conditions of this exemption, and has developed and implemented the Training, as required herein;

(4) The auditor's engagement must specifically require the auditor to test each Citigroup Affiliated QPAM's operational compliance with the Policies and Training. In this regard, the auditor must test, for each QPAM, a sample of such QPAM's transactions involving Covered Plans, sufficient in size and nature to afford the auditor a reasonable basis to determine such QPAM's operational compliance with the Policies and Training;

(5) For each audit, on or before the end of the relevant period described in Section III(i)(1) for completing the audit, the auditor must issue a written report (the Audit Report) to Citigroup and the Citigroup Affiliated QPAM to which the audit applies that describes the procedures performed by the auditor during the course of its examination. The auditor, at its discretion, may issue a single consolidated Audit Report that covers all the Citigroup Affiliated QPAMs. The Audit Report must include the auditor's specific determinations regarding:

(i) The adequacy of each Citigroup Affiliated QPAM's Policies and Training; each Citigroup Affiliated QPAM's compliance with the Policies and Training; the need, if any, to strengthen such Policies and Training; and any instance of the respective Citigroup

Affiliated QPAM's noncompliance with the written Policies and Training described in Section III(h) above.

The Citigroup Affiliated QPAM must promptly address any noncompliance and promptly address or prepare a written plan of action to address any determination by the auditor regarding the adequacy of the Policies and Training and the auditor's recommendations (if any) with respect to strengthening the Policies and Training of the respective Citigroup Affiliated QPAM. Any action taken, or the plan of action to be taken, by the respective Citigroup Affiliated QPAM must be included in an addendum to the Audit Report (and such addendum must be completed before the certification described in Section III(i)(7) below). In the event such a plan of action to address the auditor's recommendation regarding the adequacy of the Policies and Training is not completed by the time the Audit Report is submitted, the following period's Audit Report must state whether the plan was satisfactorily completed. Any determination by the auditor that the respective Citigroup Affiliated QPAM has implemented, maintained, and followed sufficient Policies and Training must not be based solely or in substantial part on an absence of evidence indicating noncompliance. In this last regard, any finding that a Citigroup Affiliated QPAM has complied with the requirements under this subparagraph must be based on evidence that the particular Citigroup Affiliated QPAM has

actually implemented, maintained, and followed the Policies and Training required by this exemption. Furthermore, the auditor must not rely solely on the Annual Report created by the compliance officer (the Compliance Officer) as described in Section III(m) below, as the basis for the auditor's conclusions in lieu of independent determinations and testing performed by the auditor as required by Section III(i)(3) and (4) above; and

(ii) The adequacy of the most recent Annual Review described in Section III(m);

(6) The auditor must notify the respective Citigroup Affiliated QPAM of any instance of noncompliance identified by the auditor within five (5) business days after such noncompliance is identified by the auditor, regardless of whether the audit has been completed as of that date;

(7) With respect to each Audit Report, the General Counsel, or one of the three most senior executive officers, of the line of business engaged in discretionary asset management services through the Citigroup Affiliated QPAM with respect to which the Audit Report applies, must certify in writing, under penalty of perjury, that such signatory has reviewed the Audit Report and this exemption; and that, to the best of such signatory's knowledge at the time, such Citigroup Affiliated QPAM has addressed, corrected, or remedied any noncompliance and inadequacy or has an appropriate written plan to address any inadequacy

regarding the Policies and Training identified in the Audit Report. Such certification must also include the signatory's determination that, to the best of such signatory's knowledge at the time, the Policies and Training in effect at the time of signing are adequate to ensure compliance with the conditions of this exemption, and with the applicable provisions of ERISA and the Code;

(8) The Risk Management Committee of Citigroup's Board of Directors is provided a copy of each Audit Report; and a senior executive officer of Citigroup or one of its affiliates who reports directly to, or reports to another executive who reports directly to, the highest-ranking compliance officer of Citigroup must review the Audit Report for each Citigroup Affiliated QPAM and must certify in writing, under penalty of perjury, that such officer has reviewed each Audit Report;

(9) Each Citigroup Affiliated QPAM provides its certified Audit Report by electronic mail to: e-oed@dol.gov; or by regular mail to: Office of Exemption Determinations (OED), 200 Constitution Avenue, NW, Suite 400, Washington DC 20210; or by private carrier to: 122 C Street, NW, Suite 400, Washington, DC 20001-2109. This delivery must take place no later than forty-five (45) days following completion of the Audit Report. The Audit Report will be made part of the public record regarding this exemption. Furthermore, each Citigroup Affiliated QPAM must

make its Audit Report unconditionally available, electronically or otherwise, for examination upon request by any duly authorized employee or representative of the Department, other relevant regulators, and any fiduciary of a Covered Plan;

(10) Each Citigroup Affiliated QPAM and the auditor must submit to OED by electronic mail to: e-oed@dol.gov: Any engagement agreement(s) entered into pursuant to the engagement of the auditor under this exemption, no later than two (2) months after the execution of any such engagement agreement;

(11) The auditor must provide the Department, upon request, for inspection and review, access to all the workpapers created and utilized in the course of the audit, provided such access and inspection is otherwise permitted by law; and

(12) Citigroup must notify the Department of a change in the independent auditor no later than two (2) months after the engagement of a substitute or subsequent auditor and must provide an explanation for the substitution or change including a description of any material disputes between the terminated auditor, and Citigroup;

(j) Throughout the Exemption Period, with respect to any arrangement, agreement, or contract between a Citigroup Affiliated QPAM and a Covered Plan, the Citigroup Affiliated QPAM agrees and warrants:

(1) To comply with ERISA and the Code, as applicable with respect to such Covered Plan; to refrain from engaging in prohibited transactions that are not otherwise exempt (and to promptly correct any non-exempt prohibited transactions in accordance with applicable rules under ERISA and the Code); and to comply with the standards of prudence and loyalty set forth in section 404 of ERISA with respect to each such Covered Plan to the extent that section is applicable;

(2) To indemnify and hold harmless the Covered Plan for any actual losses resulting directly from a Citigroup Affiliated QPAM's violation of ERISA's fiduciary duties, as applicable, and of the prohibited transaction provisions of ERISA and the Code, as applicable; a breach of contract by the QPAM; or any claim arising out of the failure of such Citigroup Affiliated QPAM to qualify for the exemptive relief provided by PTE 84-14 as a result of a violation of Section I(g) of PTE 84-14 other than the Conviction. This condition applies only to actual losses caused by the Citigroup Affiliated QPAM's violations. The term Actual losses includes, but is not limited to, losses and related costs arising from unwinding transactions with third parties and from transitioning Plan assets to an alternative asset manager as well as costs associated with any exposure to excise taxes under Code section 4975 as a result of a QPAM's inability to rely upon the relief in the

QPAM Exemption.

(3) Not to require (or otherwise cause) the Covered Plan to waive, limit, or qualify the liability of the Citigroup Affiliated QPAM for violating ERISA or the Code or engaging in non-exempt prohibited transactions;

(4) Not to restrict the ability of such Covered Plan to terminate or withdraw from its arrangement with the Citigroup Affiliated QPAM with respect to any investment in a separately managed account or pooled fund subject to ERISA and managed by such QPAM, with the exception of reasonable restrictions, appropriately disclosed in advance, that are specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors. In connection with any of these arrangements involving investments in pooled funds subject to ERISA entered into after the effective date of this exemption, the adverse consequences must relate to a lack of liquidity of the underlying assets, valuation issues, or regulatory reasons that prevent the fund from promptly redeeming a Covered Plan's investment, and such restrictions must be applicable to all investors in the pooled fund on equal terms and effective no longer than reasonably necessary to avoid the adverse consequences;

(5) Not to impose any fees, penalties, or charges for

such termination or withdrawal with the exception of reasonable fees, appropriately disclosed in advance, that are specifically designed to prevent generally recognized abusive investment practices or specifically designed to ensure equitable treatment of all investors in a pooled fund in the event such withdrawal or termination may have adverse consequences for all other investors, provided that such fees are applied consistently and in like manner to all such investors;

(6) Not to include exculpatory provisions disclaiming or otherwise limiting liability of the Citigroup Affiliated QPAM for a violation of such agreement's terms. To the extent consistent with ERISA Section 410, however, this provision does not prohibit disclaimers for liability caused by an error, misrepresentation, or misconduct of a plan fiduciary or other party hired by the plan fiduciary who is independent of Citigroup, and its affiliates, or damages arising from acts outside the control of the Citigroup Affiliated QPAM; and

(7) Each Citigroup Affiliated QPAM must provide a notice of its obligations under this Section III(j) to each Covered Plan. For all other prospective Covered Plans, the Citigroup Affiliated QPAM will agree to its obligations under this Section III(j) in an updated investment management agreement between the Citigroup Affiliated QPAM and such clients or other written contractual agreement.

This condition will be deemed met for each Covered Plan that received a notice pursuant to PTE 2016-14 or PTE 2017-05 that meets the terms of this condition. This condition will also be met where the Citigroup Affiliated QPAM has already agreed to the same obligations required by this Section III(j) in an updated investment management agreement between the Citigroup Affiliated QPAM and a Covered Plan. Notwithstanding the above, a Citigroup Affiliated QPAM will not violate the condition solely because a Covered Plan client refuses to sign an updated investment management agreement;

(k) *Notice to ERISA-covered plans and IRA clients.*

Within ninety (90) days after the effective date of this exemption, each Citigroup Affiliated QPAM provides notice of the exemption as published in the *Federal Register*, along with a separate summary describing the facts that led to the Conviction (the Summary), which has been submitted to the Department, and a prominently displayed statement (the Statement) that the Conviction results in a failure to meet a condition in PTE 84-14, to each sponsor and beneficial owner of a Covered Plan, or the sponsor of an investment fund in any case where a Citigroup Affiliated QPAM acts only as a sub-advisor to the investment fund in which such ERISA-covered plan and IRA invests.

All prospective Covered Plan clients that enter into a written asset or investment management agreement with a

Citigroup Affiliated QPAM (including a participation or subscription agreement in a pooled fund managed by a Citigroup Affiliated QPAM) after the date that is ninety (90) days after the effective date of this exemption must receive the proposed and final exemptions with the Summary and the Statement prior to, or contemporaneously with, the client's receipt of a written asset management agreement from the Citigroup Affiliated QPAM (for avoidance of doubt, all Covered Plan clients of a Citigroup Affiliated QPAM during the Exemption Period must receive the disclosures described in this Section by the later of (i) 90 days after the effective date of the exemption or (ii) the date that a Covered Plan client enters into a written asset or investment management agreement with a Citigroup Affiliated QPAM). Disclosures required under this paragraph (k) may be delivered electronically (including by an email that has a link to this exemption);

(l) The Citigroup Affiliated QPAMs must comply with each condition of PTE 84-14, as amended, with the sole exception of the violation of Section I(g) of PTE 84-14 that is attributable to the Conviction;

(m) (1) Citigroup designates a senior compliance officer (the Compliance Officer) who will be responsible for compliance with the Policies and Training requirements described herein. The Compliance Officer must conduct an annual review for each annual period beginning on January

10, 2023 (the Annual Review), to determine the adequacy and effectiveness of the implementation of the Policies and Training. With respect to the Compliance Officer, the following conditions must be met:

(i) The Compliance Officer must be a professional who has extensive experience with, and knowledge of, the regulation of financial services and products, including under ERISA and the Code; and

(ii) The Compliance Officer must be a senior compliance officer of Citigroup Inc. or one of its affiliates who reports directly to (or reports to another compliance officer who reports directly to) Citigroup Inc.'s highest ranking compliance officer (whose title is currently Global Chief Compliance Officer of Citigroup Inc.);

(2) With respect to each Annual Review, the following conditions must be met:

(i) The Annual Review includes a review of the Citigroup Affiliated QPAM's compliance with and effectiveness of the Policies and Training and of the following: Any compliance matter related to the Policies or Training that was identified by, or reported to, the Compliance Officer or others within the compliance and risk control function (or its equivalent) during the previous year; the most recent Audit Report issued pursuant to this exemption (or pursuant to PTE 2017-05 if no audit report

has been issued under this exemption); any material change in the relevant business activities of the Citigroup Affiliated QPAMs; and any change to ERISA, the Code, or regulations related to fiduciary duties and the prohibited transaction provisions that may be applicable to the activities of the Citigroup Affiliated QPAMs;

(ii) The Compliance Officer prepares a written report for each Annual Review (each, an Annual Report) that: (A) summarizes their material activities during the preceding year; (B) sets forth any instance of noncompliance discovered during the preceding year, and any related corrective action; (C) details any change to the Policies or Training to guard against any similar instance of noncompliance occurring again; and (D) makes recommendations, as necessary, for additional training, procedures, monitoring, or additional and/or changed processes or systems, and management's actions on such recommendations;

(iii) In each Annual Report, the Compliance Officer must certify in writing that to the best of their knowledge at the time: (A) The report is accurate; (B) the Policies and Training are working in a manner which is reasonably designed to ensure that the Policies and Training requirements described herein are met; (C) any known instance of noncompliance during the preceding year and any related correction taken to date have been

identified in the Annual Report; and (D) the Citigroup Affiliated QPAMs have complied with the Policies and Training and/or corrected (or is correcting) any known instances of noncompliance in accordance with Section III(h) above;

(iv) Each Annual Report must be provided to:

(A) the person or persons who certify as to the current or most recent preceding Audit Report provided pursuant to Section III(i)(7) above, and (B) the head of compliance and the General Counsel (or their functional equivalent) of the relevant Citigroup Affiliated QPAM; and must be made unconditionally available to the independent auditor described in Section III(i) above;

(v) Each Annual Review, including the Compliance Officer's written Annual Report, must be completed within three (3) months following the end of the period to which it relates;

(n) Citigroup imposes its internal procedures, controls, and protocols to reduce the likelihood of any recurrence of conduct that is the subject of the Conviction;

(o) Citigroup complies in all material respects with the requirements imposed by a U.S. regulatory authority in connection with the Conviction;

(p) Each Citigroup Affiliated QPAM will maintain records necessary to demonstrate that the conditions of this exemption have been met, for six (6) years following

the date of any transaction for which such Citigroup Affiliated QPAM relies upon the relief in the exemption;

(q) During the Exemption Period, Citigroup:

(1) Immediately discloses to the Department any Deferred Prosecution Agreement (a DPA) or a Non-Prosecution Agreement (an NPA) with the U.S. Department of Justice, entered into by Citigroup or any of its affiliates in connection with conduct described in Section I(g) of PTE 84-14 or section 411 of ERISA; and

(2) immediately provides the Department any information requested by the Department, as permitted by law, regarding the agreement and/or conduct and allegations that led to the agreement;

(r) Each Citigroup Affiliated QPAM, in its agreements with, or in other written disclosures provided to Covered Plans, clearly and prominently informs Covered Plan clients of the Covered Plan's right to obtain a copy of the Policies or a description (Summary Policies), which accurately summarizes key components of the QPAM's written Policies developed in connection with this exemption. If the Policies are thereafter changed, each Covered Plan client must receive a new disclosure within six (6) months following the end of the calendar year during which the Policies were changed. If the Applicant meets this disclosure requirement through Summary Policies, changes to the Policies shall not result in the requirement for a new

disclosure unless, as a result of changes to the Policies, the Summary Policies are no longer accurate. With respect to this requirement, the description may be continuously maintained on a website, provided that such website link to the Policies or the Summary Policies is clearly and prominently disclosed to each Covered Plan;

(s) A Citigroup Affiliated QPAM or a Citigroup Related QPAM will not fail to meet the terms of this exemption, solely because a different Citigroup Affiliated QPAM or Citigroup Related QPAM fails to satisfy a condition for relief described in Sections III(c), (d), (h), (i), (j), (k), (l), (p) and (r); or if the independent auditor described in Section III(i) fails to comply with a provision of the exemption, other than the requirement described in Section III(i)(11), provided that such failure did not result from any actions or inactions of Citigroup or its affiliates; and

(t) All the material facts and representations set forth in the Summary of Facts and Representations are true and accurate.

EFFECTIVE DATE: This four-year exemption, will be effective from January 10, 2023, through January 9, 2027.

Signed at Washington, DC.

George Christopher Cosby,
Director, Office of Exemption
Determinations,
Employee Benefits Security
Administration,
U.S. Department of Labor.

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